

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

ARMSTRONG COAL CO.

and

Case 26-CA-23263

UNITED MINE WORKERS OF
AMERICA, AFL-CIO

ORDER¹

Armstrong Coal Co.'s petition to revoke subpoena duces tecum B-558118 is denied. The subpoena seeks information relevant to a matter under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Petitioner has failed to establish any other legal basis for revoking the subpoena.² See *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507

¹ Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the Board's powers in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Pursuant to this delegation, Chairman Liebman and Member Schaumber constitute a quorum of the three-member group. As a quorum, they have the authority to issue decisions and orders in unfair labor practice and representation cases. See Sec. 3(b) of the Act. See *Snell Island SNF LLC v. NLRB*, ___ F.3d ___, 2009 WL 1676116 (2d Cir. June 17, 2009); *New Process Steel v. NLRB*, 564 F.3d 840 (7th Cir. May 1, 2009), petition for cert. filed ___ U.S.L.W. ___ (U.S. May 27, 2009) (No. 08-1457); *Northeastern Land Services v. NLRB*, 560 F.3d 36 (1st Cir. 2009), rehearing denied No. 08-1878 (May 20, 2009). But see *Laurel Bay Healthcare of Lake Lanier, Inc. v. NLRB*, 564 F.3d 469 (D.C. Cir. May 1, 2009), petition for rehearing filed, Nos. 08-1162, 08-1214 (May 27, 2009).

² The General Counsel states that he accepts the Employer's representation that there are no documents responsive to the subpoena requests, and that the only issue before the Board is whether Kenneth Allen should be compelled to reveal the identities of "John Doe A" and "John Doe B" through sworn testimony. We

(4th Cir. 1996); *NLRB v. G.H.R. Energy Corp.*, 707 F.2d 110 (5th Cir. 1982).

Dated, Washington, D.C., June 22, 2009.

WILMA B. LIEBMAN, CHAIRMAN

PETER C. SCHAUMBER, MEMBER

find that Allen should be compelled to provide that information, because the General Counsel's need for the information in order to perform his statutory duties by thoroughly investigating the charges outweighs the business and privacy interests raised by the Employer. See generally, *General Motors Corp. v. Director of the National Institute for Occupational Safety and Health, Department of Health, Education and Welfare*, 636 F.2d 163, 166 (6th Cir. 1980), cert. denied 454 U. S. 877 (1981); *St. Luke's Regional Medical Center, Inc. v. U.S.*, 717 F.Supp. 665, 666 (N.D.Iowa 1989). The Employer's concern about disclosure of the subpoenaed information to third parties may be addressed by seeking a confidentiality agreement from the General Counsel.